
Session of 2015

SENATE BILL No. 151

By Committee on Utilities

2-4

1 AN ACT concerning utilities; relating to electric generating units and
2 carbon dioxide emission standards; concerning the establishment of
3 state performance standards; state corporation commission; secretary of
4 health and environment; amending K.S.A. 2014 Supp. 65-3031 and
5 repealing the existing section.
6

7 WHEREAS, The United States environmental protection agency has
8 proposed a carbon dioxide emission standard that requires the state of
9 Kansas to comply with a state-wide emission standard rather than
10 requiring individual utilities to meet a specific emission standard on a
11 generating unit basis. In determining a carbon dioxide emission standard
12 for Kansas, the environmental protection agency has elected to require
13 states to re-dispatch coal-fired electric generating units to natural gas-fired
14 combined cycle generation units and renewable generating resources as
15 well as the use of energy efficiency and demand-side management
16 resources. Because the environmental protection agency's approach to
17 setting a carbon dioxide emission standard crosses jurisdictional
18 authorities, and due to the complexity of re-dispatching the integrated
19 electric system in the state of Kansas while maintaining reliable electric
20 service and reasonable electric rates for ratepayers, both the Kansas
21 department of health and environment and the state corporation
22 commission will need to provide their respective expertise in order to
23 efficiently and effectively develop a cost-effective and reliable compliance
24 plan. This act shall be called the Kansas electric ratepayer protection act.
25

26 *Be it enacted by the Legislature of the State of Kansas:*

27 Section 1. K.S.A. 2014 Supp. 65-3031 is hereby amended to read as
28 follows: 65-3031. (a) For all coal-fired and natural gas electric generating
29 units that are affected units pursuant to 42 U.S.C. § 7411, as in effect on
30 the effective date of this act, that have been constructed or have received a
31 prevention of significant deterioration permit by July 1, 2014, the secretary
32 of health and environment may establish separate standards of
33 performance for carbon dioxide emissions based upon: (1) The best system
34 of emission reduction that has been adequately demonstrated while
35 considering the cost of achieving such reduction;

36 (2) reductions in emissions of carbon dioxide that can reasonably be

1 achieved through measures taken at each electric generating unit; and

2 (3) efficiency and other measures that can be undertaken at each
3 electric generating unit to reduce carbon dioxide emissions without any
4 requirements for fuel switching, co-firing with other fuels or limiting the
5 utilization of the unit.

6 (b) In establishing any standard of performance for any existing
7 electric generating unit pursuant to this section, the secretary may consider
8 alternative standards and metrics or may provide alternative compliance
9 schedules than those provided by federal rules or regulations by
10 evaluating: (1) Unreasonable costs of achieving an emission limitation due
11 to plant age, location or the design of an electric generating unit;

12 (2) any unusual physical or compliance schedule difficulties or
13 impossibility of implementing emission reduction measures;

14 (3) the cost of applying the performance standard to an electric
15 generating unit;

16 (4) the remaining useful life of an electric generating unit;

17 (5) any economic or electric transmission and distribution impacts
18 resulting from closing the electric generating unit if compliance with the
19 performance standard is not possible; and

20 (6) the potential for a standard of performance relating to unit
21 efficiency, including any requirements for a new source review or the
22 application of a best available control technology emission limitation for
23 any criteria pollutant as a condition of receiving a permit or authorization
24 for the project.

25 (c) The secretary may implement such standards through flexible
26 regulatory mechanisms, including the averaging of emissions, ~~emissions~~
27 ~~trading~~ or other alternative implementation measures that the secretary
28 determines to be in the interest of Kansas. The secretary *shall not*
29 *implement a carbon emission trading mechanism without first obtaining*
30 *specific statutory authority for the mechanism. The secretary* may enter
31 into voluntary agreements with utilities that operate fossil-fuel based
32 electric generating units within Kansas to implement these carbon dioxide
33 emission standards. Such agreements may aggregate the carbon dioxide
34 emissions levels from electric resources in this state, including coal,
35 petroleum, natural gas or renewable energy resources as defined in K.S.A.
36 66-1257, and amendments thereto, that are owned, operated or utilized by
37 power purchase agreements by utilities for purposes of determining
38 compliance with such carbon dioxide emission standards. *Such*
39 *agreements shall not be effective until the secretary has given notice to the*
40 *state corporation commission, held a hearing pursuant to K.S.A. 77-501 et*
41 *seq., and amendments thereto, and issued an order which adopts the state*
42 *corporation commission's order pursuant to subsection (d).*

43 (d) Before establishing any standard of performance for any existing

1 *electric generating unit or flexible regulatory mechanism pursuant to this*
2 *section, the secretary shall give notice to the state corporation commission*
3 *and adopt the order of the commission. In making a recommendation to*
4 *the secretary, the commission shall: (1) Conduct any investigations*
5 *necessary to determine each jurisdictional utility's re-dispatch options*
6 *along with the cost of each option;*

7 *(2) conduct any investigations necessary to determine the lowest*
8 *possible cost re-dispatch options on a state-wide basis;*

9 *(3) ensure that the recommended options maintain the reliability of*
10 *Kansas' integrated electric systems;*

11 *(4) issue an order, within 300 days of receiving notice by the*
12 *secretary, which provides a detailed explanation of the commission's*
13 *findings and recommendations. Nothing in this subsection shall preclude*
14 *all parties and the commission from agreeing to extend the 300-day*
15 *period. The commission shall expeditiously conduct any such investigation*
16 *as covered within this subsection; and*

17 *(5) provide the secretary a copy of the commission's order along with*
18 *any evidence requested by the secretary.*

19 *(e) In any hearing held pursuant to subsection (c), the commission*
20 *shall function as an official intervenor and may make application for a*
21 *rehearing or seek judicial review of any order or decision of the secretary*
22 *issued pursuant to this act.*

23 ~~(d) (f)~~ *This section shall be part of and supplemental to the Kansas air*
24 *quality act.*

25 *Sec. 2. K.S.A. 2014 Supp. 65-3031 is hereby repealed.*

26 *Sec. 3. This act shall take effect and be in force from and after its*
27 *publication in the Kansas register.*

(f) The secretary shall submit the state plan to the clean power plan implementation study committee for review and approval pursuant to section 2, and amendments thereto, concurrent with the start of the public notice period for the state plan.
And by redesignating the remaining subsection accordingly

New Sec. 2. See Attachment
And by redesignating the remaining sections accordingly

ATTACHMENT

New Sec. 2. (a)(1) There is hereby established the clean power plan implementation study committee. The committee shall hold informational hearings and receive updates from the department of health and environment, the state corporation commission and the attorney general about the implications of the adoption of a state implementation plan pursuant to docket EPA-HQ-OAR-2013-0602 concerning the impact to: (A) Electric ratepayers; (B) electric utilities; (C) the reliability of the electric grid in Kansas; and (D) the overall sovereignty of the state.

(2) Upon development of a state implementation plan pursuant to K.S.A. 65-3031, and amendments thereto, the secretary of health and environment shall submit the plan to the study committee for review. After reviewing the impact of the plan pursuant to this section, the committee may approve or disapprove the submission of the plan. If the study committee approves the plan, the secretary may submit the plan to the environmental protection agency. If the committee disapproves the plan, the chairperson of the committee shall submit a petition for the calling of a special session pursuant to K.S.A. 46-1401, and amendments thereto, for the legislature to review the submission of the plan. If the legislature fails to convene a special session or fails to adopt a concurrent resolution disapproving of the submission of the plan within 60 days of the chairperson submitting a petition for the calling of a special session, the secretary may submit the plan to the environment protection agency.

(b) (1) The study committee shall be composed of 11 voting members. Five members shall be from the senate committee on utilities as follows: (A) The chairperson, vice-chairperson and ranking minority member; and (B) two members appointed by the president of the senate.

(2) Six members shall be from the house committee on energy and environment as follows: (A) The chairperson, vice-chairperson and ranking minority member; and (B) three members appointed by the speaker of the house of representatives.

(3) A quorum of the clean power plan implementation study committee shall be 6 members. All actions of the committee shall be taken by a majority of all of the members of the committee. Any vacancy in the membership of the committee shall be filled by appointment in the same manner prescribed by this section for the original appointment.

(c) Members shall be appointed to the study committee on or before July 1, 2015, for a term ending on June 30, 2017. On and after the first day of the regular legislative session in odd-numbered years, the chairperson of the special committee shall be the chairperson of the senate committee on utilities and the vice-chairperson of the special committee shall be the chairperson of the house of representatives committee on energy and environment and, after the first day of the regular legislative session in even-numbered years, the chairperson of the special committee shall be the chairperson of the house of representatives committee on energy and environment and the vice-chairperson of the special committee shall be the chairperson of the senate committee on utilities. The chairperson and vice-chairperson of the special committee shall serve in such capacities until the first day of the regular legislative session in the ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. The first meeting of the study committee shall be called by the chairperson of the

committee following the conclusion of the 2015 regular session of the Kansas legislature. The committee shall have the authority to meet at any time and at any place within the state on the call of the chairperson.

(d) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the clean power plan implementation study committee to the extent that the same do not conflict with the specific provisions of this act applicable to the study committee.

(e) Members of the clean power plan implementation study committee shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the committee.

(f) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the study committee.

(g) The provisions of this section shall expire on June 30, 2017.